R.C. 1942

To the Members of the Board

RE: New York Workers Compensation
    Miscellaneous Manual Page Revisions


The following describes the changes on the attached manual pages:

   a. Rule IV—Classifications—Explanation of Classifications

      Rule IV.B.3.5, on Page R-17, which defines the governing classification, has been amended to place the statement "that produces the greatest amount of payroll" at the beginning of the definition for greater emphasis.

   b. Rule IX—Special Conditions or Operations Affecting Coverage and Premium

      Rule IX.D., as shown on Page R-51, explains how a member of an auxiliary police organization can obtain workers compensation insurance coverage. The coverage endorsement and premium determination is also included in this rule. The New York Inclusion of Auxiliary Police Endorsement (WC 31 03 14A) is amended to change the term "policemen" to "police" to follow the wording in the manual rule.


   Rule C.14 of Part Two of the Plan currently contains a rule that defines an employee leasing arrangement, how payrolls and losses are assigned to clients for experience rating purposes and further explains the procedure that was followed for developing a client’s experience rating modification factor when the employee leasing rules first became effective on July 1, 1993.
The third paragraph of this rule, as shown on Page 10, which references coverage effective prior to July 1, 1993, has been eliminated as the conditions explained in the rule no longer apply.

Printed manual pages will be distributed as soon as they are available.

Very truly yours,

Monte Almer

President

CD:tg
Encl.
(3) Hospitals or medical facilities operated by the insured for its employees.

(4) Maintenance or repair of the insured's building or equipment by the insured's employees.

(5) Printing or lithographing by the insured on its own products.

(6) Stevedoring and tallymen or checking clerks.

(7) Research laboratories operated by the insured to develop, test and/or improve products manufactured by the insured.

(8) Examining and/or inspecting products manufactured by the insured (quality control).

b. A general inclusion operation shall be separately classified only if:

(1) Such operation constitutes a separate and distinct business of the insured as provided in Rule IV.D.3 below; or

(2) It is specifically excluded by the classification wording; or

(3) A standard exception classification is the governing classification.

Refer to Section II of the Digest of Rulings and Interpretations for further explanation.

4. General Exclusions

Some operations in a business are so unusual that they are excluded from basic classifications. They are classified separately unless specifically included in the basic classification wording. These operations are called general exclusions and are:

a. Aircraft operation—all operations of the flying and ground crews.

b. New construction or alterations by the insured's employees.

c. Sawmill operations—sawing logs into lumber by equipment such as circular carriage or band carriage saws, including operations incidental to the sawmill.

5. Governing Classification

The governing classification at a specific job or location is the classification, other than a standard exception classification, that produces the greatest amount of payroll. In instances where no basic classification is applicable, the governing classification is the standard exception classification that produces the greatest amount of payroll. For employees subject to payroll limitation, Rule V.G., limited payroll shall be used.
NEW YORK INCLUSION OF AUXILIARY POLICE ENDORSEMENT

An election was made in accordance with the provisions of the New York Workers' Compensation Law by a municipal corporation to provide coverage for auxiliary police.

Note:

To be attached to a policy of a municipal corporation which has elected pursuant to local law to cover members of an auxiliary police organization.
14. Employee Leasing

For the purpose of this rule, employee leasing arrangements shall mean an arrangement whereby an entity contracts with another entity to lease some or all of its workers. The entity providing the workers shall be referred to as the labor contractor. The entity utilizing the workers shall be referred to as the client.

The payroll and loss experience of the client’s leased and non-leased employees shall be assigned to the client for experience rating purposes.

*Note: Any reference to the labor contractor as an additional insured in any manual rule or endorsement used for employee leasing purposes does not imply common ownership between the client and the labor contractor for experience rating purposes.

D. PAYROLLS AND LOSSES

1. Payrolls

The audited payrolls or other exposures for each classification in the experience period are those reported in accordance with the New York Workers Compensation Statistical Plan.

2. Losses

The incurred losses in the experience period are those reported in accordance with the New York Workers Compensation Statistical Plan.

"Incurred losses" are defined as paid losses plus outstanding reserves for claims as of the date of valuation.

No loss shall be excluded from the experience of a risk on the grounds that the employer was not responsible for the accident that caused such loss.

For purposes of this Plan, losses incurred under the New York Workers’ Compensation Law and the United States Longshore and Harbor Workers’ Act shall be subject to the respective accident limitations shown in the Tables of Weighting and Ballast Values.

No loss shall be included in the experience of a risk if it is not required to be reported to the Workers’ Compensation Board as defined in Section 110 of the Workers’ Compensation Law provided that the employer pays the claim in the first instance or reimburses the carrier for the treatment rendered to the employee.

*Note: An employer is not required to file a claim notice with the Workers’ Compensation Board if the accident or illness requires ordinary first aid or causes loss of time from work of only one day beyond the working day or shift on which the accident or illness occurred.
3. Limitation on Total Losses Employed in a Rating.
   
a. **An Accident Involving One Person**
   
   An accident involving an injury to one person shall be limited to the accident limitation in the Tables of Weighting and Ballast Values. The actual primary loss for such an accident is subject to the maximum primary value of $5,000.
   
b. **Accidents Involving Two or More Persons**
   
   Accidents involving injuries to two or more persons shall be limited to the multiple claim accident limitation in the Tables of Weighting and Ballast Values, which is twice the normal accident limitation. The actual primary loss for such accidents is limited to $10,000, twice the normal maximum primary value.
   
c. **Disease Losses**
   
   Disease losses for each policy year shall be limited to triple the accident limitation shown in the Tables of Weighting and Ballast Values, plus 120% of the risk's total expected losses for the experience period. For each policy year, the actual primary loss for disease losses is limited to $10,000, twice the normal maximum primary value, plus 40% of the risk's total expected primary losses for the experience period. For each policy year, the excess disease losses shall be the difference between the total disease losses and the primary disease losses as determined above.
   
   **Note:** To determine the limitation on total disease losses employed in a rating as described in c., the following procedure shall apply:
   
   (1) Latest policy year—combine the disease losses for all policies within the experience period, having an effective date within 24 months prior to and valued at least 3 months prior to the experience rating date.
   
   (2) Middle policy year—combine the disease losses of all policies having an effective date more than 24 months, but not exceeding 36 months prior to the experience rating date.
   
   (3) Earliest policy year—combine the disease losses of all policies within the experience period, having an effective date more than 36 months prior to the experience rating date.

4. **Revision of Losses**

   Carrier submission of revised unit reports to the Rating Board, for purposes of automatically recalculating the current and up to two preceding experience modifications, is required only under the following circumstances:
   
   a. Originally reported loss values were incorrect due to a clerical error.
   
   b. The claimant or carrier has made a third-party recovery and the third-party has not filed a liability-over claim.
   
   c. The third-party in b., above, does file a liability-over claim, but settlement of such claim does not result in its recovery against the insured.